

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Received & Inspected

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In the Matter of)

FCC Mailroom

Pawnee Mental Health Services)

WC Docket No. 02-60

Request for Review of Decisions of the
Universal Service Administrative Company)

To: Wireline Competition Bureau

DOCKET FILE COPY ORIGINAL

REQUEST FOR REVIEW AND RULE WAIVER

Pursuant to §§ 54.719(c) and 54.720(a) of the Commission's Rules ("Rules"), Pawnee Mental Health Services ("Pawnee") hereby requests that the Commission review and reverse the decision of the Universal Service Administrative Company ("USAC") below, waive § 54.605 of the Rules, and grant funding to Pawnee as specified herein. In support thereof, the following is respectfully submitted:

FACTS

Pawnee Mental Health Services (Pawnee) is a private, not-for-profit organization licensed by the State of Kansas Department for Aging and Disability Services (KDADS) as a community mental health center. Pawnee serves 10 counties in Northeast Kansas, with one being urban, eight rural and one frontier and is headquartered in Manhattan, KS. Pawnee is one of 26 mental health organizations in Kansas. The Pawnee staff has been serving their communities since 1956 and offers a wide range of services including therapy services, psychiatric services, substance & abuse services and rehabilitation services for severely and persistently mental ill (SPMI) adults as well as for severely and emotionally disturbed (SED) children.

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In 2012, after several years of cuts from the State of Kansas, Pawnee looked into ways of cutting its expenses and providing services less expensively. Pawnee explored providing tele-psychiatry services to a number of its rural communities, but found that although it would save staff travel and allow staff to provide more services, much of these savings would be eaten away do to increased tele-communication costs. After discussions with other rural Community Mental Health Centers, Pawnee learned of the Telecommunications Program and engaged a consulting firm, USF Healthcare Consulting, Inc. ("UHC"), to assist it in obtaining Universal Service support through the Telecommunications Program ("Telecom Program") for rural health care providers ("HCPs").

Pawnee authorized UHC to prepare the FCC Forms 465 ("Form 465") and the FCC Forms 466 ("Form 466") necessary to obtain Telecom Program funding and to submit them electronically to USAC's Rural Health Care Division ("RHCD").

UHC helped Pawnee obtain funding for switched Ethernet services to connect all of their locations in a private network.

As the Commission is aware, participants in the Telecom Program have found it difficult to determine urban rates as required by § 54.605 of the Rules.¹ As set forth in the Declaration of Geoff W. Boggs, UHC's Chief Executive Officer, UHC found it difficult to obtain tariffed or publicly available rates for high-speed Ethernet packet-based services that are offered in urban areas (cities with populations of 50,000 or more).² Consequently, UHC followed the practice of

¹ See, e.g., Comments of Alaska Communications, GN Docket No. 16-46, at 12-13 (May 24, 2017) ("Alaska Communications Comments").

² See Exhibit 1 at 2 (¶ 7).

obtaining urban rates from urban service providers.³ To document the urban rate, UHC asked the provider to supply a letter on its letterhead that states the rate that is charged in an urban area in the state.⁴

In the case of Pawnee, UHC relied on a letter, dated March 28, 2016, from Scott Madison, the managing member of Network Services Solutions (“NSS”). Mr. Madison represented that “[t]he Urban rate for a 20M Ethernet connection in Wichita, Kansas. is \$146.00 per channel termination. This rate is based upon a 36-month contract.”⁵ UHC calculated the taxes that would be applied to the \$146.00 urban rate in Kansas, and prepared and submitted the 466 forms for Pawnee as listed in Table 2⁶

On March 29, 2017, the RHCD requested that Pawnee explain how it derived the \$146.00 urban rate to provide urban rate documentation.⁷ In response, I effectively informed the RHCD that Pawnee was amending its Form 466s by specifying that the urban rate is \$195. UHC provided the RHCD with documents showing that BellSouth Telecommunications, LLC offered to provide switched Ethernet service up to 100 Meg throughout Kansas at monthly charge of \$195.00 under a three-year contract.⁸ Thereafter, UHC repeatedly asked if the RHCD needed additional information or if it could speak with the RHCD staffer who was reviewing the \$195.00 urban rate.⁹ UHC expected that it would be contacted if the RHCD had any questions with regard to the urban rate, and that it would be afforded the opportunity to address any such

³ See *id.* (¶ 8).

⁴ See *id.*

⁵ *Id.* (¶ 9).

⁶ See *id.* at 6 (¶ 6), 2 (Table 2).

⁷ See *id.* at 3 (¶¶ 11, 12).

⁸ See *id.* (¶ 13).

⁹ See *id.* at 4-5 (¶¶ 14, 15, 17-19).

questions before the RHCD would render its funding decisions.¹⁰ However, UHC was given no such opportunity.¹¹

On June 2, 2017, the RHCD notified Pawnee that USAC was “unable to provide support” to Pawnee, specifically because it had not “demonstrated that the urban rate provided for the requested service is ‘no higher than the highest tariffed or publicly-available rate charged to a commercial customer for a *functionally similar* service’ in any city with a population of 50,000 or more in that state.”¹² The RHCD did not explain why Pawnee’s submissions were insufficient or why it did not grant Pawnee’s requests for the opportunity to address the urban rate issue.

This program has been instrumental in allowing Pawnee to continue to serve its rural communities that may have otherwise been closed. With the State of Kansas now allowing tele-therapy services to be provided in addition to tele-psychiatry services, Pawnee was looking at further expanding services to these communities. Without this funding Pawnee will have to explore once again consolidating these offices, forcing clients in these areas to travel further to receive the services they need.

WAIVER STANDARD

Pawnee seeks a waiver of § 54.603 of the Rules to permit it to receive the appropriate level of USF support for the Funding Year 2016. The Commission has the discretion to grant the

¹⁰ See *id.* at 5 (¶ 21).

¹¹ See *id.*

¹² *Id.* (¶ 22).

requested waiver under § 1.3 of the Rules, which provides:

The provisions of this chapter may be suspended, revoked, amended, or waived for good cause shown, in whole or in part, at any time by the Commission, subject to the provisions of the Administrative Procedure Act [“APA”] and the provisions of this chapter. Any provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown.¹³

Generally speaking, the Commission may exercise its discretion under the APA and § 1.3 of the Rules to suspend or waive a Rule for good cause “only if special circumstances warrant a deviation from the general and such deviation will serve the public interest.” *Northeast Cellular Telephone Co., L.P. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990). Of course, the Commission must grant waivers pursuant to an “appropriate general standard.” *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969). The Wireline Competition Bureau (“WTB”) recently set forth the general standard that is applied to requests for waivers of §§ 54.600 – 54.625 of the Rules, which govern the Telecom Program:

The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. Waiver of the Commission's rules is appropriate only if both (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest.¹⁴

ARGUMENT

In the words of one participant in the Telecom Program, the rules governing the program (“Telecom Rules”) “written two decades ago for a world of tariffed low-bandwidth, circuit-switched services are increasingly unworkable.”¹⁵ In 2012, the Commission promised to address

¹³ 47 C.F.R. § 1.3.

¹⁴ *Rural Health Care Universal Service Support Mechanism*, 2017 WL 735668, at *2 (WTB Feb. 10, 2017). (footnotes omitted) (“*NSS Waiver Decision*”).

¹⁵ Alaska Communications Comments at 12.

potential reforms to the Telecom Program “at a future date.”¹⁶ In the meantime, it has allowed its woefully outdated Telecom Rules to remain in effect.¹⁷ Section 54.605 of the Telecom Rules is one such rule.

Adopted in 1997, § 54.605 of the Telecom Rules has remained virtually unchanged.¹⁸ The rule provides that the “urban rate” that an HCP should pay is “a rate no higher than the highest tariffed or publicly-available rate charged to a commercial customer for a functionally similar service in any city with a population of 50,000 or more in that state, calculated as if it were provided between two points within the city.” Although “[d]etermining the urban rate” is the heading of § 54.605, the rule does address exactly how an HCP should go about determining the “highest tariffed or publicly-available rate charged” for a similar service in an urban area.

The Commission assumed in 1997 that such the urban rate would be “tariffed or publicly available” and thus readily accessible. That assumption may have been well founded in 1997, but not so today. Now, HCPs use high-bandwidth services, like video and teleconferencing, which are provided by lightly-regulated competitive carriers over high-speed Ethernet packet-based networks. Those services are provided at competitive, market-driven rates, which often are neither tariffed nor publicly-available.¹⁹ USAC was undoubtedly aware that HCPs were experiencing difficulty in ascertaining the urban rates for broadband Ethernet-based services.

The difficulties UHC experienced in obtaining urban rates for Ethernet services led it to

¹⁶ *Rural Health Care Support Mechanism*, 27 FCC Rcd 16678, 16751 n.433 (2012)

¹⁷ *See id.* at 16815 (¶ 344).

¹⁸ *Compare Federal-State Joint Board on Universal Service*, 12 FCC Rcd 8776, 9348-49 (1997) with 47 C.F.R. § 54.605 (2017).

¹⁹ *See* Exhibit 1 at 2 (¶ 7).

obtain the urban rates for such services from urban service providers.²⁰ UHC's practice would be to obtain a letter on a service provider's letterhead that would state the rate that is charged in an urban area in the state for an Ethernet service similar to that required by the HCP. UHC would provide USAC with a copy of the service provider's letter to document the urban rate. The provision of such a letter is an approved means of documenting an urban rate.²¹

In this case, UHC obtained a letter on NSS's letterhead that represented that the urban rate for 20 Mbps Ethernet service in Wichita, Ks was \$146.00 per channel termination. The Commission subsequently found that NSS's determinations of urban rates apparently were not calculated in the manner required by § 54.605 of the Telecom Rules.²² Accordingly, when the RHCD questioned the validity of the urban rate that NSS supplied to Pawnee, UHC was forced to obtain documentation from another urban service provider to confirm that NSS had correctly determined that \$195.00 was the urban rate for up to a 100 Mbps Ethernet service in Kansas.²³ UHC obtained such documentation and submitted it to the RHCD in timely fashion.²⁴

During the 65-day period between March 29, 2017, when Pawnee responded to the RHCD's inquiry, and June 2, 2017, when the RHCD rendered its funding decision, the RHCD did not: (1) advise UHC that its submission did not demonstrate its urban rate was no higher than the highest rate charged in Wichita, Ks. for a 1.5 Mbps and 5 Mbps Ethernet service; (2) respond to UHC's repeated requests for feedback; or (3) give UHC an opportunity to correct Pawnee's

²⁰ See *id.* at 2 (¶ 8).

²¹ See Form 466 Instructions, at 8 (July 2014) (urban rate documentation "may include tariff pages, contracts, a letter on company letterhead from the urban service provider, rate pricing information printed from the urban service provider's website, or similar documentation").

²² See *Network Services Solutions, LLC*, 31 FCC Rcd 12238, 12275 (¶ 107) (2016).

²³ See Exhibit 1 at 3-4 (¶ 13).

²⁴ See *id.*

response by specifying that the urban rate for the Ethernet service should be \$373.35 for the 5 Meg and \$390 for the 1.5 MEg. The RHCD simply and inexplicably denied funding to Pawnee.

Under the special circumstances of this case, the strict enforcement of § 54.605 would be inequitable, inconsistent with the policies embodied in § 254(h)(1)(A) of the Act, and ultimately inconsistent with the public interest. With respect to the equities, the Commission should note the following facts.

- It is difficult for HCPs to determine the urban rates for Ethernet services in accordance with the outdated requirements of § 54.605.
- Pawnee complied with the Commission's requirement that it submit "missing or relevant support documentation" within 14 days of the RHCD's request for information.²⁵
- UHC relied on NSS's \$195.00 urban rate in good faith, and that reliance led it to incorrectly identify AT&T's Ethernet basic port charge of \$195.00 as the urban rate in its initial response to the RHCD's inquiry.²⁶
- UHC reasonably expected that the RHCD would give it the opportunity to correct any errors in its initial submission.²⁷
- The RHCD ignored UHC's repeated requests to be informed of any problem with its proposed urban rate, and to be given the opportunity to address any such problem.
- UHC could have corrected its error in timely fashion had the RHCD clearly informed UHC that the urban rate had to include one of AT&T's "committed information rates"

²⁵ *Rural Health Care Support Mechanism*, 30 FCC Red 230, 231 (¶ 3) (WCB 2015).

²⁶ See Exhibit 1 at 3-4 (¶ 13), Attachment 1.

²⁷ See *id.* at 5 (¶ 21).

(“CIRs”) as well as its basic port charge.²⁸

- Once it learned that the urban rate should include AT&T’s port charge and a CIR, UHC proposed the correct urban rate of \$373.35 (\$214.50 + \$158.85) for the 5 Meg and \$327.58 (\$214.50+113.08) for the 1.5 Megs (2 Meg Urban Rate)²⁹

Pawnee respectfully submits that RHCD abused its discretion when it refused to allow UHC to correct its mistaken reliance on NSS. The RHCD’s refusal to grant equitable relief to Pawnee makes it inequitable for the Commission to strictly enforce § 54.605 in this case. The Commission should grant Pawnee a limited waiver of § 54.605 to permit it to receive funding for the Fiscal Year 2016. Such action would be consistent with the relief that the Commission has afforded other HCPs whose reliance on NSS led USAC to deny their funding requests. *See NSS Waiver Decision*, 2017 WL 735668, at *2-3 (¶¶ 6-8).

Grant of the requested waiver would comport with the policy that Congress codified when it authorized the Commission to establish the Telecom Program. Congress instructed the Commission to base policies for the preservation and advancement of universal service in part on the principle that HCPs “should have access to advance telecommunications services as described in [§ 254(h) of the Act].”³⁰ Section 254(h)(1)(A) of the Act provides:

A telecommunications carrier shall, upon receiving a bona fide request, provide telecommunications services which are necessary for the provision of health care services in a State, including instruction relating to such services, to any public or nonprofit [HCP] that serves persons who reside in rural areas in that State at rates that are reasonably comparable to rates charged for similar services in urban areas in that State. A telecommunications carrier providing service under this paragraph shall be entitled to have an amount equal to the difference, if any, between the rates for services provided to [HCPs] for rural areas in a State and the rates for similar services provided to other customers in comparable rural areas in that

²⁸ *See id.* at 5-6 (¶¶ 23, 24), Attachment 3.

²⁹ *See id.* at 5-6 (¶ 23), Attachment 3.

³⁰ 47 U.S.C. § 254(b)(6).

State treated as a service obligation as a part of its obligation to participate in the mechanisms to preserve and advance universal service.³¹

Congress codified the policy that HCPs be afforded access to advanced telecommunications services, such as Ethernet-based broadband services, at rates that are reasonably comparable to urban rates for similar services. That Congressional policy must outweigh the interests of “efficiency and effectiveness” that are served by the 14-day deadline for submitting urban rate documentation to the RHCD.³² And that policy would clearly be served if the Commission permits Pawnee to submit a Form 466 that will allow it to receive Ethernet services at rates that are in fact reasonably comparable to the rates charged by AT&T for similar Ethernet services in cities in Kansas. The Commission should reverse the RHCD and grant the rule waiver that is necessary to allow Pawnee to submit such a Form 466 to the RHCD *nunc pro tunc* as of March 29, 2017.

REQUEST FOR RELIEF


Attached hereto as Exhibit 2 is a Form 466 for Pawnee HCP 13731 that lists a rural rate of \$1986 for 5 Mbps Ethernet service provided by Cox Business and an urban rate of \$373.35. For Pawnee HCP’s 14656, 28308, and 28309, The 1.5 Meg Circuit provided by Cox Business should be a rural rate of \$684 and an urban of \$327.58. Pawnee respectfully requests that the Commission; (1) waive § 54.605 of the Telecom Rules to the limited extent of allowing Pawnee to submit the Form 466 that is attached as Exhibit 2 to USAC; and (2) direct USAC to process the Form 466 as if it had been submitted on March 29, 2017 in response to the RHCD’s request for information.

Respectfully submitted,

³¹ 47 U.S.C. § 254(h)(1)(A).

³² *Rural Health Care Support Mechanism*, 30 FCC Rcd at 231 (¶ 3).

Pawnee Mental Health Services

By: 
Robert Hanson
CFO
425 Houston Street, Manhattan KS 66502
(785) 587-4346

7/26/2017

EXHIBIT 1

DECLARATION

I, Geoff W. Boggs, do hereby declare as follows:

1. I am the Chief Executive Officer of USF Healthcare Consulting, Inc. ("UHC").
2. USF Healthcare Consulting, Inc. is a Kentucky based corporation that assists nonprofit Healthcare Facility with their Universal Service Fund ("USF") applications.
3. Pawnee Mental Health Services (Pawnee) is a private, not-for-profit organization licensed by the state of Kansas Department for Aging and Disability Services (KDADS) as a community mental health center. Pawnee serves 10 counties in Northeast Kansas, with one being urban, eight rural and one frontier and is headquartered in Manhattan, KS. Pawnee is one of 26 mental health organizations in Kansas. The Pawnee staff has been serving their communities since 1956 and offers a wide range of services including therapy services, psychiatric services, substance & abuse services and rehabilitation services for severely and persistently mental ill (SPMI) adults as well as for severely and emotionally disturbed (SED) children.
4. UHC was retained to assist Pawnee in obtaining USF support through the Telecommunications Program ("Telecom Program") for rural health care providers ("HCPs"). Pawnee authorized UHC to prepare the FCC Forms 465 ("Form 465s") and the FCC Forms 466 ("Form 466s") necessary to obtain Telecom Program funding and to submit them electronically to the Rural Health Care Division ("RHCD") of the Universal Service Administrative Company ("USAC").
5. I am preparing this declaration to support the appeal and request for waiver that Pawnee plans to file with respect to the RHCD's decisions not to approve the funding request number ("FRN") identified in Table 1 below:

TABLE 1

Fund Year	HCP Number	HCP Name	FRN
2016	13731	Pawnee Mental Health-Concordia	1686727
2016	14656	Pawnee Mental Health Ctr Marysville	1686732
2016	28308	Pawnee Mental Health-Mitchell County	1686840
2016	28309	Pawnee Mental Health-Clay Co	1686837

6.

UHC

prepared and submitted the Form 465s and Form 466s associated with the FRNs identified above. I was listed as the contact person at Line 16 of the Form 465s and I electronically signed and certified the Form 466s. The Form 466 that was submitted electronically to USAC on September 14, 2016 included the information set forth in Table 2.

TABLE 2

HCP	FRN	Service	Bandwidth	Rural Rate	Urban Rate
13731 Pawnee Mental Health Center-Concordia	168627	Ethernet	5 Mbps	*\$2,115.69	*\$155.53
14656 Pawnee Mental Health Center Marysville	1686732	Ethernet	1.5 Mbps	*\$806.44	*\$169.16
28308 Pawnee Mental Heal - Mitchell CO	1686840	Ethernet	1.5 Mbps	*\$806.68	*\$172.12
28309 Pawnee Mental Health-Clay Co	1686837	Ethernet	1.5 Mbps	*\$806.68	*\$172.12

*Both the original Rural Rate and Urban Rate included taxes.

7. UHC found it difficult to obtain tariffed or publicly available rates for high-speed Ethernet packet-based services that are offered in urban areas (cities with populations of 50,000 or

more). Typically, such services are provided by lightly-regulated competitive carriers that neither publish tariffs nor make their urban rates available to the public.

8. Because of the difficulty of obtaining publicly-available urban rates for Ethernet services, UHC followed the practice of obtaining urban rates from urban service providers. To document the urban rate, UHC asked the provider to supply a letter on its letterhead that states the rate that is charged in an urban area in the state for an Ethernet service similar to that required by the HCP.

9. To provide the urban rate documentation required by Line 41 of the Form 466, Pawnee submitted a letter, dated March 28, 2016, from Scott Madison, the managing member of Network Services Solutions (“NSS”). Mr. Madison represented that “[t]he Urban rate for a 20 Meg Ethernet connection in Wichita, Ks. is \$146.00 per channel termination. This rate is based upon a 36-month contract.” I understood that NSS provided service to HCPs in the Telecom Program, and I was led to believe that I could rely on the urban rates that NSS supplied.

10. As far as I am aware, there is no Commission rule that informs an HCP of how it must submit a Form 466 electronically to USAC, or how the HCP must document the urban rate that is provided in a Form 466. Moreover, I do not know of a Commission rule that affords an HCP no more than 14 calendar days to respond to a USAC request for omitted or adequate documentation of the urban rate. I was led to believe that an HCP was free to supplement its initial response to a USAC request for urban rate documentation.

11. On March 27, 2017, the RHCD sent emails to Pawnee and UHC, it referred to an attachment that posed questions with regard to the HCP’s the above-identified FRN. The email stated, “Please submit your responses to these inquiries by no later than fourteen (14) calendar days from the date of this letter. Failure to provide the requested information within this time

frame will result in denial of the funding requests.” In contrast, the attachment concluded:

Please submit your responses to the above requests by no later than **fourteen (14) calendar days** from the date of this letter. Failure to respond to USAC’s information requests in a timely manner and/or provide the requested documentation demonstrating compliance with the Commission’s rules may result in denial of the funding request, a commitment adjustment, rejection of an invoice, and/or recovery of improperly disbursed funds. The responses you provide may also result in a follow-up information requests by USAC as necessary.

12. Pawnee was requested to provide: (a) an explanation of “how the urban of \$146.00 was derived;” (b) “documentation to support the urban rate provided, including, but not limited to, documentation that supports that the urban rate for the requested service is ‘no higher than the highest tariffed or publicly-available rate charged to a commercial customer for a functionally similar service’ in any city with a population of 50,000 or more in that state;” and (c) an “explanation how each HCP’s request for 1.5 Mbps and 5 Mbps Ethernet services are ‘functionally similar’ to the services(s) used for purposes of this comparison.”

13. Attachment 1 to this declaration is a copy of the email that I sent to the RHCD on March 29, 2017, which was in response the RCHD’s information request. I effectively informed RHCD that Pawnee was amending its form 466 by specifying that the urban rate was \$195. To document the \$195.00 urban rate, I provided the RHCD with a two-page rate card that showed AT&T’s rates for its switched Ethernet services effective May 1, 2016, and an excerpt from the “AT&T Switched Ethernet Service Guide,” which described the service. Those documents showed that BellSouth Telecommunications, LLC offered to provide speeds up to 100 Mbps switched Ethernet service throughout Kansas at monthly charge of \$195.00 under a three-year contract.

14. In my March 29, 2017 email, I asked the RHCD to confirm that it received my email. I also requested that the RHCD “let me know if we are missing anything.”

15. Concerned that USAC had not approved the Forms 466s that UHC had filed that relied on the \$195.00 urban rate, I sent an email to Erica Stauter at USAC on April 14, 2017 in which I stated:

I wanted to ask about the Ethernet applications we filed and then resubmitted urban rates. We have not received any approvals on these and I wanted to make sure that you did not need anything else from us. Jeremy [Matkovich] told us our urban rates were fine, so I am just checking.

Some of our HCP [clients] are clamoring about their credits and I want to give them an answer.

16. On April 14, 2017, Blythe Albert responded to my email to Ms. Stauter. She sent me an email informing me as follows:

There seems to be some miscommunication about the forms below. These forms are being reviewed using the documentation provided. Until the reviews of all of these forms has been completed no commitments will be issued. During the review process, additional questions may be asked to verify the information provided. The attached email is the correspondence between you and Jeremy. He did not explicitly say that the urban rates were fine. The first sentence says, "If the monthly recurring cost for services(s) that the HCP is requesting only for the transport and does not include any service charges(s)....." We will reach out with more questions if necessary. Thanks.

17. I immediately sent Ms. Albert an email in which I asked her: "If they are not accepted, will you tell us before denying? We want to make sure we are providing the right urban rates." Ms. Albert did not answer my question.

18. Beginning on May 11, 2017, I began providing Ms. Albert with copies AT&T pricing schedules showing that AT&T offered 100 Mbps switched Ethernet service to HCPs at rates comparable to the \$195 urban rate specified in the Form 466s that the PAWNEEHCPs submitted. I sent her rate schedules showing that AT&T had agreed to provide 100 Mbps switched Ethernet services to an HCP in Hondo, Texas at a monthly rate of \$214.50, and to an HCP in Independence, Kansas at a monthly rate of \$235.95. I offered to discuss the rate schedules with Ms. Albert, and I asked her if I could speak with the person who was reviewing the 195.00 urban

rate.

19. Attachment 2 is a copy of the email that I sent USAC on behalf of Pawnee on June 1, 2017. In my email, I stated:

I understand the \$195 urban rate is still under review. Since these FRNs have not been approved ... I am submitting a new urban rate, similar to the \$195, to be used if the \$195 is not accepted. I have attached the urban rate. This is to be used for the following [HCPs] and [FRNs].

HCP 13731 FRN 1686727

For the following FRN's please use the portal [RHCD] urban rate for a T1. Posted rate is \$390 for 2016.

HCP 14656 FRN 1686732

HCP 28308 FRN 1686840

HCP 28309 FRN1686837

Please call me if you have any questions.

20. Attached to my email was a copy of a document showing that an AT&T customer had accepted the rates, terms and conditions of an AT&T switched Ethernet service pricing schedule. I circled the terms of the pricing schedule indicating that the urban rate for the Ethernet circuits should be \$214.50.

21. I fully expected that the RHCD would contact me if it had any questions with regard to the \$195 or the \$214.50 urban rate, and UHC would be afforded the opportunity to address any such questions before the RHCD would render its funding decisions. UHC was given no such opportunity. I asked Blythe Albert multiple times to talk to the reviewer and received no communication from any reviewer.

22. On June 2, 2017, I was notified that USAC was "unable to provide support" to Pawnee, specifically because it had not "demonstrated that the urban rate provided for the requested is 'no higher than the highest tariffed or publicly-available rate charged to a commercial customer for a *functionally similar* service' in any city with a population of 50,000 or more in that

state.’”

23. I subsequently learned that the urban rate should have included AT&T’s “Basic Port” charge and its “Committed Information Rate” or “CIR.” Accordingly, I went back to the AT&T pricing schedule that I sent Ms. Albert on May 15, 2017, and I circled the \$214.50 port charge and the appropriate CIR. I then wrote the information set forth in Table 3 on page 4 of the pricing schedule.

TABLE 3

BANDWIDTH	PORT CHARGE	CIR	TOTAL
5 Mbps	\$214.50	\$158.85	\$373.35
10 Mbps	\$214.50	\$255.00	\$464.50
20 Mbps	\$214.50	\$321.30	\$535.80
50 Mbps	\$214.50	\$371.25	\$585.75
100 Mbps	\$214.50	\$433.94	\$648.44

24. Attachment 3 consists of the emails that I sent the RHCD and Ms. Albert on June 12, 2017, and the AT&T pricing schedule that was an attachment to the first of my two emails. I requested feedback on whether the AT&T pricing schedule could be used to document urban rates that would be comprised of its basic port rate and a CIR. Thus, I proposed to use Ethernet urban rates set forth in Table 3 for Funding Year 2017. I inquired whether UHC would be given the opportunity to fix any problems that USAC would have with regard to the proposed urban rates. I also asked for a prompt response to my question so that UHC could complete applications for funding prior to the upcoming deadline.

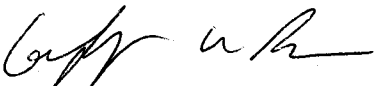
25. Ms. Albert called me on June 13, 2017 and left the following message:

Hey Geoff, it's Blythe calling from USAC. My direct line is 202-772-5248. About that urban rate document, we've kind of can't talk about them outside of the review but it looks like it has a pretty decent information and a reviewer will definitely reach out to you. I would suggest just submitting your application using that urban rate document if that makes sense and they, the reviewer, will reach out to you and we'll see what comes of that, ok. Anyway, you can call me back but that's pretty much, you know, the best answer I can give you, we don't typically review documents outside of the review. But it, for all intents and purposes, looks like it

has decent information to me, I'm not sure what the reviewer will come up with but they will definitely, no question, reach out to you. Ok? Thanks. Bye.

26. We believe if RHCD attempted to call and walk us through their questions they would have been able to allow the urban rates we provided.

27. I declare under penalty of perjury that the foregoing is true and correct. Executed on July 27, 2017.



Geoff W. Boggs

ATTACHMENT 1

Geoff Boggs

From: Geoff Boggs
Sent: Wednesday, March 29, 2017 11:12 AM
To: 'RHC-Assist'
Subject: RE: Request for Information for HCP#(s) 13731 14656 28308 and 28309 for FY 2016
Attachments: AT&T Ethernet @ \$195.00.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

I have attached the AT&T tariff which is for up to a 100 Meg for \$195. That will cover the three 1.5 Meg Ethernet circuits and the 5 Meg Ethernet circuit

HCP 13731 FRN 1686727
HCP 14656 FRN 1686732
HCP 28308 FRN 1686840
HCP 28309 FRN 1686837

Please confirm receipt and let me know if we are missing anything.

Thanks

Geoff Boggs
USF Healthcare Consulting, Inc.
P. O. Box 326
Prospect, KY 40059
502-228-1907
888-875-8810 Fax
gboggs@uasave.com

From: RHC-Assist [mailto:rhc-assist@usac.org]
Sent: Monday, March 27, 2017 2:19 PM
To: robert.hanson@pawnee.org
Cc: gboggs@uasave.com
Subject: Request for Information for HCP#(s) 13731 14656 28308 and 28309 for FY 2016

Robert Hanson,

Please see attached document for additional information regarding HCP number(s) 13731 14656 28308 and 28309 for FY 2016.

Please submit your responses to these inquiries by no later than fourteen (14) calendar days from the date of this letter. Failure to provide the requested information within this time frame will result in denial of the funding requests.

The information contained in this electronic communication and any attachments and links to websites are intended for the exclusive use of the addressee(s) and may contain confidential or privileged information. If you are not the intended recipient, or the person responsible for delivering this communication to the intended

ATTACHMENT 2

Geoff Boggs

From: Geoff Boggs
Sent: Thursday, June 01, 2017 11:28 AM
To: 'RHC-Assist'; 'Nikoletta Theodoropoulos'; 'Blythe Albert'
Subject: Pawnee Mental 4 HCPs 2016 Applications
Attachments: AT&T Ethernet contract \$214.00 Multi state.pdf

I understand the \$195 urban rate is still under review. Since these FRN's have not been approved and I am submitting a new urban rate, similar to the \$195, to be used if the \$195 is not accepted. I have attached the urban here. This is to be used for the following HCP's and FRN's.

HCP 13731 FRN 1686727

For the following FRN's Please use the Portal Urban rate for a T1. Posted rate is \$390 for 2016

HCP14656 FRN 1686732

HCP 28308 FRN 1686840

HCP 28309 FRN 1686837

Please call me if you have any questions.

Geoff Boggs
USF Healthcare Consulting, Inc.
P. O. Box 326
Prospect, KY 40059
502-228-1907
888-875-8810 Fax
gboggs@uasave.com

ATTACHMENT 3

Geoff Boggs

From: Geoff Boggs
Sent: Monday, June 12, 2017 4:54 PM
To: 'RHC-Assist'; 'Blythe Albert'; 'Nikoletta Theodoropoulos'
Subject: RE: 2017 Telecommunication Program Applications Urban Rate
Attachments: AT&T Ethernet contract \$214.00 COS Multi state.pdf

Were you able to review this contract to be used as an urban rate for Ethernet circuits? I would appreciate some feedback.

Thanks,

Geoff Boggs
USF Healthcare Consulting, Inc.
P. O. Box 326
Prospect, KY 40059
502-228-1907
888-875-8810 Fax
gboggs@uasave.com

From: Geoff Boggs [<mailto:gboggs@uasave.com>]
Sent: Monday, June 12, 2017 7:57 AM
To: 'RHC-Assist' <rhc-assist@usac.org>; 'Blythe Albert' <Blythe.Albert@usac.org>; 'Nikoletta Theodoropoulos' <Nikoletta.Theodoropoulos@usac.org>
Subject: 2017 Telecommunication Program Applications Urban Rate

Can you give me some feedback?

We are using this urban rate for some Ethernet circuits for the states covered on this contract. The speeds are from 2 Meg to 1 GIG.

If the services are non-Internet Ethernet circuits will this work as an urban rate?

If you have any questions on urban rates will you notify us and give an opportunity to fix it for 2017 applications?

Please respond as soon as possible so that we can complete the applications in question before the deadline.

Geoff Boggs
USF Healthcare Consulting, Inc.
P. O. Box 326
Prospect, KY 40059
502-228-1907
888-875-8810 Fax
gboggs@uasave.com

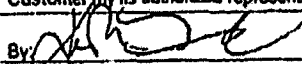


Contract Id: 4870831

AT&T MA Reference No. 138180UA
AT&T Contract ID No. SDN50MJUPR

AT&T SWITCHED ETHERNET SERVICE™ (with NETWORK ON DEMAND)
Pricing Schedule Provided Pursuant to Custom Terms

By signing this Pricing Schedule, Customer accepts all rates, terms and conditions herein, as presented to Customer by AT&T.

Customer (by its authorized representative)	
By:	
Printed or Typed Name:	KEVIN FROESCH
Title:	CFO
Date:	8/25/2016

For AT&T internal use only:

Contract Ordering and Billing Number (CNUM):

pcs_processed, cs_approved

AT&T and Customer Confidential Information
Page 2 of 5

ASE_NoD_ps_U EC_nool_customer
v09-17-15 1

WK# - Interstate-InterLATA - TBD

For AT&T Administrative Use Only
Pricing Schedule No. _____
Original Effective Date: _____AT&T Switched Ethernet ServiceSM (with Network On Demand) Pricing Schedule Provided Pursuant to Custom Terms

1. SERVICE, SERVICE PROVIDER(S) and SERVICE PUBLICATION(S)

1.1 AT&T Switched Ethernet ServiceSM

Service Areas

Service	Service Publication (Incorporated by reference)	Service Publication location
AT&T Switched Ethernet Service SM	AT&T Switched Ethernet Service Guide	http://cpr.att.com/pdf/commonEthServGuide.html

Service Providers			
AT&T Alabama	AT&T Indiana	AT&T Missouri	AT&T Tennessee
AT&T Arkansas	AT&T Kansas	AT&T Nevada	AT&T Texas
AT&T California	AT&T Kentucky	AT&T North Carolina	AT&T Wisconsin
AT&T Florida	AT&T Louisiana	AT&T Ohio	BellSouth Telecommunications,
AT&T Georgia	AT&T Michigan	AT&T Oklahoma	LLC d/b/a AT&T Southeast
AT&T Illinois	AT&T Mississippi	AT&T South Carolina	

1.2 Inside Wiring

Service	AT&T Inside Wiring
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Service Provider	Service Publication	Service Publication Location
Same as the AT&T Service Provider for the AT&T Switched Ethernet Service	AT&T Inside Wiring Service Attachment	http://cpr.att.com/pdf/service_publications/AS_E_SDN_Inside_Wiring_Attachment.pdf

2. PRICING SCHEDULE TERM, EFFECTIVE DATES

Term

Pricing Schedule Term	36 months
Pricing following the end of Pricing Schedule Term	Non-stabilized prices as modified from time to time in applicable Service Publication or, if there is no such pricing, the pricing in this Pricing Schedule

3. MINIMUM PAYMENT PERIOD

Service Components	Percentage of Monthly Recurring Charge Applied for Calculation of Early Termination Charges*	Minimum Payment Period per Service Component
All Service Components	50% plus any unpaid or waived non-recurring charges	Until end of Pricing Schedule Term
*Early termination charges shall not exceed the total amount of monthly recurring charges for the remainder of the Minimum Payment Period; refer to <u>Network on Demand Guide</u> for details.		

4. ADDS

AT&T Switched Ethernet Service Customer Port Connections may be purchased during the Pricing Schedule Term at the rates, terms and conditions herein.

* ETHERNET URBAN RATES

Contract Id: 4870831

WK# - Interstate-InterLATA - TBD	For AT&T Administrative Use Only Pricing Schedule No. _____ Original Effective Date: _____
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AT&T Switched Ethernet ServiceSM (with Network On Demand) Pricing Schedule Provided Pursuant to Custom Terms

5. RATES and CHARGES

5.1 AT&T SWITCHED ETHERNET SERVICE

5.1.1 Monthly Recurring Charges (MRC)

All Monthly Recurring Charge (MRC) rates are per port. The total MRC for a port is the sum of the Port Connection MRC, the Bandwidth MRC, and any associated Feature MRC(s).

Port Connection MRC

* Cost of Circuit

Customer Port Connection Speed	MRC
100 Mbps	\$214.5
1 Gbps	\$214.5

Bandwidth MRC

If Customer changes the CIR and/or CoS configuration during the billing cycle, the Bandwidth MRC will be prorated based on the time interval for each configuration.

Bandwidth MRC (100 Mbps and 1 Gbps Basic Port Connections)					
Committed Information Rate (CIR)	Class of Service (CoS)				
	Non Critical High	Business Critical Medium	Business Critical High	Interactive	Real Time
2 Mbps	\$91.09	\$94.23	\$113.08	\$133.49	\$144.49
4 Mbps	\$107.34	\$110.50	\$129.44	\$146.80	\$157.85
5 Mbps	\$136.61	\$142.97	\$158.85	\$174.74	\$187.44
8 Mbps	\$180.68	\$187.50	\$202.84	\$216.47	\$231.81
10 Mbps	\$210.80	\$221.00	\$255.00	\$289.00	\$309.40
20 Mbps	\$276.32	\$289.17	\$321.30	\$353.43	\$379.13
50 Mbps	\$323.40	\$338.25	\$371.25	\$404.25	\$435.60
100 Mbps	\$380.53	\$400.56	\$433.94	\$467.32	\$500.70
150 Mbps	\$530.94	\$557.29	\$582.82	\$607.95	\$652.53
250 Mbps	\$604.95	\$635.20	\$715.86	\$796.52	\$855.00
400 Mbps	\$665.91	\$699.50	\$778.54	\$857.58	\$920.82
500 Mbps	\$707.17	\$742.33	\$820.47	\$898.61	\$965.03
600 Mbps	\$809.63	\$849.73	\$939.47	\$1002.49	\$1073.14
1000 Mbps	\$918.26	\$965.11	\$1040.07	\$1115.03	\$1195.61

5M 214.50 10M 214.50 20M 214.50 50M 214.50 100M 214.50
 158.85 255.00 321.30 371.25 433.94
 Feature MRC \$ 317.35 \$ 464.50 \$ 535.00 \$ 589.75 \$ 648.44

Feature	MRC
Enhanced Multicast	\$70

5.1.2 Non Recurring Charges (NRC)

Standard Non Recurring Charges for installation of new Customer Port Connections, per the applicable Service Publication, will be waived.

pcs_processed_cs_approved	AT&T and Customer Confidential Information Page 4 of 5	ASE_NoD_ps_ILEC_eloc_customer v.09-17-15.1
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EXHIBIT 2

Health Care Providers Universal Service Funding Request and Certification Form

The deadline to submit this form is the June 30th end of the funding year.

Estimated time per response: 3 hours

Read instructions thoroughly before completing this form. Failure to comply may cause delayed or denied funding.**Block 1: HCP Information**

1 HCP Name Pawnee Mental Health - Clay County	2 HCP Number 28309
3 Form 465 Application #43166210	4 Consortium Name (If any)

Block 2: Bill Payer Information

5 Billed Entity Name Pawnee Mental Health - Clay County	6 Billed Entity FCC RN 0011656840
7 Contact Name Robert Hanson	
8 Address Line 1 503 Grant Avenue	
9 Address Line 2	
10 City Clay Center	11 State KS 12 Zip 67432
13 Contact Phone #785-587-4300	14 Fax # 15 Email robert.hanson@pawnee.org

Block 3: Funding Year Information

16 Funding Year - Check only one box
<input type="checkbox"/> Year 2014 (7/1/2014-6/30/2015) <input type="checkbox"/> Year 2015 (7/1/2015-6/30/2016) <input checked="" type="checkbox"/> Year 2016 (7/1/2016-6/30/2017)

Block 4: Service Information

17 Type of Service & Circuit Bandwidth (Documentation required) 1.5 Mbps Ethernet
18 Total Billed Miles 0 19 Maximum Allowable Distance (From Form 465) 126
20 Percentage of HCP's service used for the provision of health care. 100 (If less than 100%, please explain.) If the HCP indicated it is a part-time eligible entity (on Form 465), describe method of allocating prorated support.

21 Service Provider Name	Cox Business			
22 Service Provider Identification Number (SPIN)	143006715			
23 Service Provider Contact Person Name	Cynthia			
24 Service Provider Contact Person's Phone #	316-260-7425			
25 Service Provider Contact Person Email	cynthia.schmucker@cox.com			
26 Circuit Start Location	503 Grant Avenue Clay Center KS			
27 Circuit Termination Location	Central Office			
28 Billing Account Number	001 1019			
29 Tariff, Contract or other document reference number	NA			
30 Date Contract Signed or Date HCP Selected Carrier	04/30/2015			
31 Contract Expiration Date (mm/dd/yyyy or NA if MTM)	MTM			
32 Service Installation Date	04/30/2015			
33 Actual Rural Rate per Month (Enclose Documentation)	684.00			

34 If you are a consortium member OR have multiple carriers, please attach a Circuit Diagram to show how the sites interconnect and which carrier(s) provides each circuit segment. Circuit Diagram included: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

35 Are you a mobile rural health care provider? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, see instructions and attach a list of all sites to be served.

IF YOU ARE REQUESTING SUPPORT FOR MILEAGE-BASED CHARGES, COMPLETE BLOCK 5 ONLY AND SKIP BLOCK 6. (PLEASE SEE INSTRUCTIONS). IF YOU ARE REQUESTING SUPPORT BASED ON URBAN/RURAL RATE COMPARISON, SKIP BLOCK 5 AND COMPLETE ONLY BLOCK 6. YOUR APPLICATION CANNOT BE PROCESSED IF BOTH BLOCKS ARE COMPLETED.

Block 5: Mileage-based Charge Discount Request

Complete this block if you are seeking support for mileage (distance-based) charges only. Do not enter any other charges in this block. You may need to ask your service provider representative to provide this information.

36 Billed Circuit Miles	0			
37 Monthly Mileage Charges (Exclude Channel Termination chgs, etc.) °				
38 Cost per Mile per Month	0			

If Line 33 equals Line 37, please ensure that ONLY mileage-related charges are included in Line 37. (See instructions.)

Block 6: Comprehensive Rate Comparison Request

Complete Block 6 if you have not completed Block 5 and are requesting support for all elements of your telecommunications service necessary for the provision of health care. The information in this block will establish the difference between the urban and rural rates for your requested service. Please contact RHCD at (800) 453-1546 if you need assistance.

39 One-time Urban Rate Charge (in selected large city)				
40 One-time Rural Rate Charge (in city where HCP is located)				
41 Monthly Urban Rate (in selected large city). From RHCD website: <input type="checkbox"/> or Other rate documentation attached: <input checked="" type="checkbox"/>	327.58			

If your circuit includes charges for mileage over the Maximum Allowable Dist., (Line 19), please complete Lines 42 to 44. Otherwise, skip to Block 7.

42 Billed Circuit Miles	0			
43 Monthly Mileage Based Charges	0			
44 Cost per Mile per Month	0			

Block 7: Bid Documentation

45 Did you receive any bids in response to the Form 465 Request for Services posted on the RHCD website? ☐ Yes ☒ No
If you checked yes, copies of the bids MUST be submitted to RHCD.

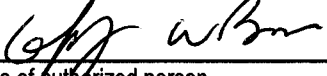
Block 8: Certification

46 ☒ I certify that the above named entity has considered all bids received and selected the most cost-effective method of providing the requested service or services. The "most cost-effective service" is defined in the Universal Service Order as the service available at the lowest cost after consideration of the features, quality of transmission, reliability, and other factors that the health care provider deems necessary for the service to adequately transmit the health care services required by the health care provider.

47 ☒ Pursuant to 47 C.F.R. Secs. 54.601 and 54.603, I certify that the HCP or consortium that I am representing satisfies all of the requirements herein and will abide by all of the relevant requirements, including all applicable FCC rules, with respect to universal service benefits provided under 47 U.S.C. Sec. 254. I understand that any letter from RHCD that erroneously states that funds will be made available for the benefit of the applicant may be subject to rescission.

48 ☒ I hereby certify that the billed entity will maintain complete billing records for the service for five years.

49 ☒ I certify that I am authorized to submit this request on behalf of the above-named Billed Entity and HCP, and that I have examined this form and attachments and that to the best of my knowledge, information, and belief, all statements of fact contained herein are true.

50 Signature 	51 Date 07/27/2017
52 Printed name of authorized person Geoff Boggs	53 Title or position of authorized person CEO
54 Employer of authorized person USF Healthcare Consulting	55 Employer's FCC RN 0018694075

Please remember:

- ♦ You must submit one Form 466 for **each service** (i.e., circuit) for which you request reduced rates. For example:
 - If you are requesting reduced rates for **two** T1 lines, you must submit **two** Forms 466.
 - If you are requesting reduced rates for **two** ISDN lines & **one** Frame Relay line, you must submit **three** Forms 466.
- ♦ **If the service described on this form is subject to the 28-day competitive bidding requirement, do not select a carrier or complete the Form 466 before or during the 28-day posting period.**
- ♦ **You must provide evidence of the urban rate if you have completed Block 6 and have not used the urban rates from the website.**
- ♦ This form, attachments, and supporting documents should be combined in one envelope and sent to the RHCD.
- ♦ If the service described on this form changes (e.g., rate change) during the funding year, **you must notify RHCD immediately** and submit a revised Form 466.
- ♦ If you have any questions, contact RHCD at (800) 453-1546.

Persons willfully making false statements on this form can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. Sec. 1001.

FCC NOTICE FOR INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND THE PAPERWORK REDUCTION ACT

Part 3 of the Commission's Rules authorize the FCC to request the information on this form. The data reported will be used to ensure that health care providers have selected the most cost-effective method of providing the requested services as set forth in 47 C.F.R. Section 54.603(b)(4). The information will be used by the Universal Service Administrative Company and/or the staff of the Federal Communications Commission, to evaluate this form, to provide information for enforcement and rulemaking proceedings and to maintain a current inventory of applicants, health care providers, billed entities, and service providers. No authorization can be granted unless all information requested is provided. Failure to provide all requested information will delay the processing of the application or result in the application being returned without action. Information requested by this form will be available for public inspection. Your response is required to obtain the requested authorization.

The public reporting for this collection of information is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the required data, and completing and reviewing the collection of information. If you have any comments on this burden estimate, or how we can improve the collection and reduce the burden it causes you, please write to the Federal Communications Commission, AMD-PER, Paperwork Reduction Act Project (3060-0804), Washington, DC 20554. We will also accept your comments regarding the Paperwork Reduction Act aspects of this collection via the Internet if you send them to pra@fcc.gov. PLEASE DO NOT SEND YOUR RESPONSE TO THIS ADDRESS.

Remember - You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0804.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, PUBLIC LAW 93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(e)(3) AND THE PAPERWORK REDUCTION ACT OF 1995, PUBLIC LAW 104-13, OCTOBER 1, 1995, 44 U.S.C. SECTION 3507.

This form should be submitted online through the RHC Program online application system, My Portal.
<https://forms.universalservice.org/usaclogin/login.asp>